S.B. Civil Writ Petition NO.4241/2002

M/s. Jetha Ram Construction Co. Vs. State of Raj. & Ors.

Date of Order : 11-12-2004

HON'BLE MR. PRAKASH TATIA,J.

Mr. R.S. Saluja, for the petitioner.
Mr. Rajesh Joshi, for the respondents.

Heard learned counsel for the parties.

By this writ petition, the petitioner is seeking relief of enforcement of the award dated 6.12.2000 as the Arbitrator under Section 77(1)(a) passed the award in favour of the petitioner for Rs.7,71,000/- @ 18% per annum.

It will be relevant to mention here that the respondents No.3 and 4 preferred appeal to challenge the award dated 6.12.2000 before Rajasthan State Cooperative Societies Tribunal Jaipur. The Tribunal dismissed the appeal of the respondents No.3 and 4 vide order dated 11.1.2002 after holding that the appeal was barred by time. In writ petition No.4864/2002, challenging the order dated 11.1.2002, this Court has set aside the order of the Tribunal and remanded the matter back to the Tribunal for deciding on merits.

In view of the above, there is no reason for

enforcing the award at this stage at the instance of the petitioner. Learned counsel for the petitioner submitted that the respondent State in this writ petition has filed the reply and categorically admitted that the amount which is due in the petitioner can be paid to the petitioner and the respondents are read to pay the amount as per the Government circular dated 28.5.1997. Learned counsel for the petitioner submits that in view of the above admission, relief can be granted to the petitioner that the respondents would pay the amount as they admitted in their reply to the writ petition.

In view of the fact that State has unequivocally admitted that the payment may be made as per the Government circular dated 28.5.1997, then that was on behalf of the State Government and not on behalf of the contesting parties who are disputing the claim of the petitioner. It will be relevant to mention here that one reply is available on record filed on behalf of the respondent No.4 but learned counsel for respondents No.3 and 4 submit that this is a reply filed by the Additional Govt. Advocate on behalf of the State and respondent No.4. It has been signed by O.IC. From Rajasthan State Cooperative Societies Department, Jaipur and not by respondent No.3 and 4. In view of the above fact, in this writ petition, no relief can be granted to the petitioner as this cannot be treated as admission of the respondent No.3 and 4. However, it is made clear that if the Government circular dated 28.5.1997 governs the case and respondents No.3 and 4 are bound by

that circular and they accept any claim of the petitioner, they should not withheld the amount because of the mere pendency of the litigation between the parties and litigation may not be used for depriving the person from his money.

In view of the above, the writ petition is disposed of that the observation so far as the claim about admitted money is concerned.

[PRAKASH TATIA],J.

Praveen